

November 14, 2003

The Honorable Kathleen Q. Abernathy  
The Honorable Nan Thompson  
The Honorable Jonathan S. Adelstein  
The Honorable Thomas Dunleavy  
The Honorable Billy Jack Gregg  
The Honorable Lila A. Jaber  
The Honorable Kevin J. Martin  
The Honorable Bob Rowe

**Re: Federal-State Joint Board on Universal Service  
CC Docket No. 96-45 -- Ex Parte Presentation**

Honorable Members of the Federal-State Joint Board on Universal Service:

TDS Telecom understands that the record before the Joint Board on the issues now under consideration pursuant to the Portability Referral Order and Public Notice has been a long time in the making.<sup>1</sup> We add here thoughts on a few subjects that are of special and crucial importance to our customers and the service we provide to them. We advance in this document the following points:

1. The Joint Board Should Reject Proposals to Limit Support to Primary Lines
2. With Respect to the ETC Designation Process and Standards, The Joint Board Should Insist Upon Equitable Standards and Accountability and Above All, High Quality Service for Consumers
3. It is Time to Broaden the Contribution Base

**About TDS Telecom**

TDS Telecom is a provider of high quality, reliable, locally based telecommunications services to 900 rural and suburban communities in 29 states. Founded in 1969, and headquartered in Madison, Wisconsin, TDS Telecom is a part of the Telephone and Data

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<sup>1</sup> Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Order, (rel. Nov. 8, 2002), 17 FCC Rcd 22642 (Referral Order); Federal-State Joint Board on Universal Service Seeks Comment on Certain of the Commission's Rules Relating to High-Cost Universal Service Support and the ETC Designation Process, CC Docket No. 96-45, Public Notice (rel. Feb. 7, 2003).

Systems, Inc. (AMEX: TDS) family of companies with more than one million access line equivalents, up from approximately 700,000 access line equivalents in 2000.<sup>2</sup> TDS Telecom offers local and long distance voice and high-speed data services and products in both the residential and business markets in its service territories. TDS Telecom emphasizes reliability and customer service, and is consistently favorably rated by third-party evaluators for its high quality customer service.

### **The Primary Line Debate: The Joint Board Should Reject Proposals to Limit Support to Primary Lines**

TDS strongly endorses the substance and reasoning of the ex parte filing submitted by ITTA, OPASTCO, NTCA, USTA and The Western Alliance, dated November 11, 2003 urging the Joint Board to reject proposals that would limit universal service support to one line per subscriber – the “primary line” – for carriers serving consumers in high cost rural and insular areas. In addition to the compelling arguments advanced there, TDS urges the members of the Joint Board to review the statistics of the past decade and a half on second-line adoption among subscribers.<sup>3</sup> Second lines have declined slightly in recent years — for example, because of consumer adoption of DSL and cable modems in place of second lines used for data. For consumers in rural areas who may live or work beyond the reach of these technologies, however, second lines remain the driving force behind Internet access. Thus, adding a second line encourages Internet use, with important contributions to narrowing the “digital divide.” The availability of universal service funding for a network which includes additional lines is crucial for this important aspect of how consumers are using the PSTN in the information era. As more and more essential services, including government services, and important information sources move to the Internet, now is the wrong time to cut off support for additional lines.

While the Joint Board surely has a responsibility to ensure sound stewardship of the universal service funding mechanisms, denying funding to this important part of today’s communications infrastructure may save funds but it sacrifices solid network planning and investment. The Joint Board also should consider the difficulty in obtaining an accurate count of second lines. It is well documented in this proceeding that reliable data on second lines is not readily available, and that there are numerous other administrative concerns surrounding the attempt to fund only primary lines. This notion of cutting off support beyond the primary line – difficult in and of itself for the reasons identified both by the Joint Board and in the multi-association filing – would be misguided.

### **Determining Eligible Telecommunications Carrier (“ETC”) Status: The Joint Board Should Insist Upon Equitable Standards and Accountability, and Above All, High Quality Service for Consumers**

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<sup>2</sup> Annual Report of Telephone and Data Systems, Inc. (“TDS”) 2002.

<sup>3</sup> *Trends in Telephone Service*, August 2003 at 37; Table 7.4 at 42.

The Joint Board should give great weight to presentations in the record that document the disparities in the balance of benefits and burdens between wireless and wireline carriers. Under the current rules, both types of carriers may qualify as ETCs. Yet wireline carriers alone are required to bear the responsibility as carriers of last resort and guarantee the provision of service throughout a study area, even where a customer has abandoned the service, whereas wireless carriers are not so required. Further, wireline carriers obtain universal service funding retrospectively, after the network investment is made (and expenses are incurred), whereas wireless ETCs benefit from, essentially, up front payment of the "ported" amount of support.

TDS Telecom does not suggest a roll back of the competitive entry process, nor formalistic changes to the ETC process that would merely wrap the exercise in red tape. But TDS Telecom does urge the Joint Board to give content to the requirements of Section 254 by ensuring that wireless carriers that seek universal service support be required to provide services that are comparable in scope and quality to incumbent wireline services from which support is being ported. Further, as a provider of services in 29 states, TDS Telecom supports the development of federal guidelines to give consistency and predictability to the ETC designation process, as outlined in the November 8, 2002 Referral Order.<sup>4</sup> TDS Telecom believes that consumers as well as all market participants would benefit from guidelines that address the following issues:

- Enforcement of equal state quality of service standards, and regular reporting on adherence to such standards for all ETCs
- Enforcement of equal state outage reporting standards and requirements for regular reporting for all ETCs
- A requirement that the ETC demonstrate a capability to provide advanced data and information services (though TDS Telecom does not propose that universal service support be extended to such services at this time, consumer expectations are now such that a service provider purporting to replace the services of the wireline incumbent should be required to demonstrate the widespread availability of such services)
- A requirement that the ETC offer service throughout the incumbent's study area
- Promulgation of reporting and audit standards to ensure that universal service funds are spent properly and for appropriate purposes.

With respect to the basis upon which the portability amount is calculated, TDS Telecom agrees that since the purpose of the USF payment is not to enrich the recipient but instead to essentially reimburse the provider for the added costs it faces in providing service to

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<sup>4</sup> The Referral Order invites comments about whether and how *Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393, 418 (5th Cir. 1999) affects the ability to promulgate ETC designation standards. Standing as it does only for the proposition that the language of Section 254 does not authorize the FCC to prohibit the states from promulgating additional standards of service for ETCs, this case presents no obstacle to the development of an orderly and standardized code to ensure consistency and predictability for the process, and quality service for consumers.

high-cost areas, that the relevant benchmark should be the ETC's own costs. The Rural Task Force's approach of relying on the incumbent's costs for all ETCs for a five-year period is a worthy transition mechanism that eases administrative issues. But the strains on the finances of the USF mechanism require re-evaluation of this approach. TDS Telecom does not underestimate the amount of work that ETC applicants would need to undertake to demonstrate their costs; in fact, those are the same steps that TDS Telecom's operating companies must endure to recover a portion of its costs through universal service. Given the fundamental notion that a reimbursement system should be based on actual costs where available, we urge the Commission to start with the ETC's actual cost of providing service to the entire area in which it is otherwise authorized to construct a network and provide service. So, for example, for a wireless carrier ETC, the relevant area would be the territory covered by the particular spectrum license that encompasses the study area subject to reimbursement. This formulation makes economic sense because the network was designed and constructed to serve the entire license area, and it would be artificial to focus on just a portion of the network in analyzing costs. If for sound and legitimate reasons those costs are not available, then as a fallback the Commission could calculate costs on the basis of the incumbent companies' weighted statewide per line cost as a surrogate. But the Joint Board should reduce the risk and amount of a windfall that would be costly for the fund by relying on the ETC's actual costs as described above where possible.

In all events, fiscal responsibility requires a method that does a more precise job of getting at the ETC's costs. This effort is well worth the trouble because in the end it will be much more important and efficacious in safeguarding the integrity of the fund than proposals to eliminate second-line support for rural subscribers.

### **It Is Time to Broaden the Contribution Base**

TDS agrees with those commenters who have urged the Joint Board to broaden the contribution base in two respects. First, TDS agrees that the line between interstate and intrastate telecommunications services is becoming increasingly blurred by wireless, flat-rated and Internet Protocol offerings. Accordingly, it is time to revisit the decision to exclude intrastate offerings and the revenues they generate from contributing to the USF. This change would not have to displace or disrupt state universal service funds, which serve universal service policies in different ways.

Second, TDS agrees that it is time to revisit the types of services that contribute to and support universal service. Broadband offerings and Voice over Internet Protocol offerings are increasingly marketed and consumed as alternatives to services that are clearly and properly classified as telecommunications services. Therefore, it is logical and equitable to include them in the contribution base.

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TDS Telecom stands ready to assist the Joint Board in its important work. The Joint Board may find it especially helpful to gain insight into how the proposals would affect a company doing the very work that the high cost mechanism supports – providing modern, high quality, reliable service to people living and working in the country's rural areas. We would be pleased to supplement this presentation in writing or in person as may be helpful to the Joint Board.

Sincerely,

A handwritten signature in cursive script, reading "Robert J. DeBroux /cd".

Robert J. DeBroux  
Paul Pederson  
TDS Telecom  
525 Junction Road  
Suite 700  
Madison, WI 53717

Kathleen Wallman  
Kathleen Wallman PLLC  
9332 Ramey Lane  
Great Falls, Virginia 22066

cc: Joint Board Staff (via email)

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